

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1763.01
COMPLAINT INVESTIGATOR:	Jane Taylor-Holmes
DATE OF COMPLAINT:	May 30, 2001
DATE OF REPORT:	June 29, 2001
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	July 25, 2001

COMPLAINT ISSUES:

Whether the Elkhart Community Schools violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's *individualized education program* (the "IEP") as written, specifically:

- a. failing to make computers available for the student's use in the resource room; and
- b. failing to provide support in math and reading.

511 IAC 7-18-2 and 511 IAC 7-17-36 with regard to the school's alleged failure to provide a free appropriate public education to a student with a disability between the ages of three of twenty-two at no cost to the parent, specifically, requiring the parent to obtain a medical evaluation at the parent's expense.

511 IAC 7-25-7(b) with regard to the school's alleged failure to convene a case conference committee meeting subsequent to the completion of an additional evaluation.

FINDINGS OF FACT:

1. The student (the "Student") is ten years old and just completed the third grade at the local elementary school (the "School"). The Student is eligible for special education and related services as a student with a learning disability ("LD").
2. The Student's thirty-six month re-evaluation was conducted on November 6, 2000. The Student's annual case review was held on January 31, 2001, and the results of the re-evaluation were reviewed.
3. The Complainant contends that the psychologist (the "Psychologist") who conducted the Student's thirty-six month re-evaluation recommended that the Complainant obtain a medical evaluation for the Student to rule out the possibility of a brain tumor. The Complainant reported that this information was presented to her by the LD Teacher at the January 31, 2001, CCC meeting, as the result of the LD Teacher's telephone conversation with the Psychologist prior to the CCC meeting.
4. The Psychologist wrote the following in the *Report of Psychological Examination*. "It is known that large differences between verbal and performance scores on the WISC-III can signal a neurological problem in the hemisphere corresponding to the portion of the test that is low, in [Student's] case the left hemisphere."

5. The CCC *Report* includes an Evaluation Summary written by the Psychologist that states the following. "A significant discrepancy still exists between cognitive and academic scores. She also show[s] a very large difference between verbal and non-verbal scoring on the WISC-III that may [] medical evaluation-especially given her word finding difficulty at times."
6. In a letter dated June 20, 2001, the Student's private physician (the "Private Physician") wrote the following with respect to a telephone conversation held with the Psychologist. "At some point prior to 4-20-01, I did have a phone conversation with [Psychologist]. At that time he stated that some of the testing she had done showed some uncommon abnormalities. He had recommended MRI of her brain due to the fact that these changes can at times be caused by mass lesions or brain abnormalities. Therefore an MRI of the brain was ordered."
7. In a memorandum dated June 6, 2001 (the "Memo"), to the Director, the Director of Pupil Services reported that in late April 2001, he had been contacted by the Complainant regarding the Complainant's inquiry of how to handle billing the local school corporation for the cost of a brain scan for the Student. The Director of Pupil Services stated that after the conversation with the Complainant he contacted the LD Teacher and the Psychologist. He also reviewed the Student's recent *IEP* and *Report of Psychological Examination* and could "find no allusions to the need for a brain scan or any medical procedures/interventions in those."
8. The Psychologist told the Director of Pupil Services that he "thought it was important to share evaluation results with [Student's] physician," because there was a much larger discrepancy between the Student's verbal and performance scores, "which could have medical significance." However, the Psychologist "made no recommendation for medical testing and that he was confident that his test results supported [Student's] identification as a student with a learning disability."
9. The LD Teacher reported to the Director of Pupil Services that the Complainant was told during the CCC meeting that one of the factors noted for the changes in the Student's evaluation results "could be neurological factors that the physician might want to be aware of." The LD Teacher also reported to the Director of Pupil Services that there was no discussion regarding the need for medical testing at either the CCC meeting or in private conversations.
10. The Complainant reported that she canceled the Student's MRI when she was told that the School was not going to pay for the test.
11. The Student's *IEP*, dated January 31, 2001, indicates that she was in a general education classroom (the "Classroom") for all academics, and was to receive LD support 1-2 times per month in language arts and LD support 3-5 times per week in math in the Classroom from the Classroom teacher (the "Teacher") and special education support personnel. The *IEP* also states that the Student "requires support in the area of math and needs to have support available if needed for reading."
12. The LD Teacher reported that the Student received support for reading in the Classroom almost daily for the first half of the 2000-01 school year. This changed in February 2001; however, the paraprofessional checked on the Student weekly and spoke to the Student's Teacher on several occasions with regard to the Student. According to the LD Teacher, the Student rarely needed help and was progressing.
13. The LD Teacher reported that the Student received support in math in the Classroom three to four times per week. Both the paraprofessional and the Teacher assured the LD Teacher that the Student was progressing well.
14. The paraprofessional reported that she checked on the Student daily at the beginning of the 2000-

01 school year, and that the Student would ask the paraprofessional questions and help for pronunciation. As the year progressed, the Student did not want the paraprofessional's help, so the paraprofessional would check over the Student's shoulder. The Student would take the initiative and ask the paraprofessional or the Teacher for help when it was needed. The paraprofessional added that she continued to check on the Student's progress on a weekly basis and was told by the Teacher that the Student was doing fine and progressing. The paraprofessional added that the Student had a great grasp of math concepts and facts, and her "math was always very high."

15. There is no reference in the *IEP* that the Student should have a computer available for her use in the resource room.
16. The student's teacher of record (the "TOR") reported that although computer access was not addressed in the Student's *IEP*, the Student went to the School's computer lab twice a week for 30 minutes at a time.

CONCLUSIONS:

1. Findings of Fact #11, #12, #13, #14, #15, and #16 indicate that the Student received the support in math and reading in the Classroom as indicated in the *IEP*. The Student's *IEP* did not provide for computer access in the resource room. No violation of 511 IAC 7-27-7(a) occurred.
2. Findings of Fact #2, #3, #4, #5, #6, #7, #8, and #9 indicate that the *CCC Report* and the *Report of Psychological Examination* make reference to having the Student medically evaluated because of "possible neurological" reasons; and the Psychologist recommended to the Student's private physician that the Student have an MRI. However, there is no indication in the *CCC Report* that the CCC made a recommendation, and came to a subsequent agreement that the Student should have an MRI. No violation of 511 IAC 7-18-2 and 511 IAC 7-17-36 has occurred.
3. Finding of Fact #2 indicates that the CCC met to discuss the results of the Student's triennial evaluation. Finding of Fact #10 indicates that no other evaluation has been requested or conducted since the Complainant canceled the Student's MRI which would require the CCC to meet. No violation of 511 IAC 7-25-7(b) occurred.

The Department of Education, Division of Special Education requires no corrective action based on the Findings of Fact and Conclusions listed above.

DATE REPORT COMPLETED: June 29, 2001